

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PNC BANK, NATIONAL) CASE NO.: 1:10-cv-01349-PAG
ASSOCIATION , successor to National City)
Bank) JUDGE PATRICIA A. GAUGHAN
)
Plaintiff,)
)
v.) <u>AGREED JUDGMENT ENTRY TO</u>
) <u>COMPLAINT ON COGNOVIT</u>
INDUSTRIAL TRANSPORT, INC., et al.) <u>PROMISSORY NOTES AND COGNOVIT</u>
) <u>GUARANTIES</u>
Defendants.	

On this 17th day of June, 2010, Plaintiff PNC Bank, National Association (“PNC”), by and through its attorney, and Daniel DeMarco, an attorney at law licensed to practice in this State and before this Court, for and on behalf of Defendant Industrial Transport, Inc. (“Ind. Transport”), Defendant Intrans, Inc. (“Intrans”), Defendant Industrial Inventory Solutions, Inc. (“IIS”) and Defendant Industrial Repair Services, Inc. (“IRS”, and collectively with Ind. Transport, Intrans and IIS, the “Defendants”), appeared in open court, and by virtue of the warrants of attorney appearing as part of Note A, Note B, Note C, the Intrans Guaranty, the IIS Guaranty and the IRS Guaranty (as such terms are defined in the *Complaint on Cognovit Promissory Notes and Cognovit Guaranties* (the “Complaint”)), which are attached to the Complaint filed herein and marked as Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E and

Exhibit F shown to have been duly executed by the Defendants, waived the issuance and service of process in this action and confessed judgment on the Complaint, Note A, Note B, Note C, the Intrans Guaranty, the IIS Guaranty and the IRS Guaranty as follows:

On Count I of the Complaint:

- (i) Judgment in favor of PNC against Ind. Transport in the amount of **\$3,066,203.13**, plus interest on the unpaid principal balance of Note A, from and after June 15, 2010, at the variable default interest rate [Prime + 3.00% per annum] as set forth in Note A, together with applicable late charges as set forth in Note A;
- (ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on Note A; and
- (iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of Ind. Transport.

On Count II of the Complaint:

- (i) Judgment in favor of PNC against Ind. Transport in the amount of **\$455,801.57**, plus interest on the unpaid principal balance of Note B, from and after June 15, 2010, at the variable default interest rate [Prime + 3.50% per annum] as set forth in Note B, together with applicable late charges as set forth in Note B;
- (ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on Note B; and
- (iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of Ind. Transport.

On Count III of the Complaint:

- (i) Judgment in favor of PNC against Ind. Transport in the amount of **\$20,113.76**, plus interest on the unpaid principal balance of Note C, from and after June 15, 2010, at the variable default interest rate [Prime + 4.00% per annum] as set forth in Note C, together with applicable late charges as set forth in Note C;
- (ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on Note C; and
- (iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of Ind. Transport.

On Count IV of the Complaint:

- (i) Judgment in favor of PNC against Intrans in the amount of **\$3,542,118.46**, plus interest on the unpaid principal balance of the Notes (as defined in the Complaint), from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;
- (ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on the Intrans Guaranty; and
- (iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of Intrans.

On Count V of the Complaint:

- (i) Judgment in favor of PNC against IIS in the amount of **\$3,542,118.46**, plus interest on the unpaid principal balance of the Notes, from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;

(ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on the IIS Guaranty; and

(iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of IIS.

On Count VI of the Complaint:

(i) Judgment in favor of PNC against IRS in the amount \$3,542,118.46, plus interest on the unpaid principal balance of the Notes, from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;

(ii) The reasonable attorneys' fees and expenses incurred by PNC in the enforcement and collection on the IRS Guaranty; and

(iii) All other relief to which PNC is entitled, either at law or in equity, all at the cost of IRS.

Attorney DeMarco, pursuant to the warrants of attorney appearing as part of Note A, Note B, Note C, the Intrans Guaranty, the IIS Guaranty and the IRS Guaranty, waived and released all errors and rights of appeal and stays of execution on behalf of the Defendants in this proceeding. This Court finds that all allegations set forth in the Complaint, and as confessed by the Defendants, are meritorious. This Court further finds that this action was brought in a venue where the Defendants are subject to confessions of judgment, and that none of Note A, Note B, Note C, the Intrans Guaranty, the IIS Guaranty or the IRS Guaranty arose out of a consumer loan or consumer transaction.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that PNC Bank, National Association recover from Industrial Transport, Inc., Intrans, Inc, Industrial Inventory Solutions, Inc. and Industrial Repair Services, Inc. as follows:

On Count I of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Industrial Transport, Inc. in the amount of **\$3,066,203.13**, plus interest on the unpaid principal balance of Note A, from and after June 15, 2010, at the variable default interest rate [Prime + 3.00% per annum] as set forth in Note A, together with applicable late charges as set forth in Note A;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on Note A, to be submitted to the Court by way of motion.

On Count II of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Industrial Transport, Inc. in the amount of **\$455,801.57**, plus interest on the unpaid principal balance of Note B, from and after June 15, 2010, at the variable default interest rate [Prime + 3.50% per annum] as set forth in Note B, together with applicable late charges as set forth in Note B;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on Note B, to be submitted to the Court by way of motion.

On Count III of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Industrial Transport, Inc. in the amount of **\$20,113.76**, plus interest on the unpaid principal balance of Note C, from and after June 15, 2010, at the variable default interest rate [Prime + 4.00% per annum] as set forth in Note C, together with applicable late charges as set forth in Note C;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on Note C, to be submitted to the Court by way of motion.

On Count IV of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Intrans, Inc. in the amount of **\$3,542,118.46**, plus interest on the unpaid principal balance of the Notes, from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on the Intrans Guaranty, to be submitted to the Court by way of motion.

On Count V of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Industrial Inventory Solutions, Inc. in the amount of **\$3,542,118.46**, plus interest on the unpaid principal balance of the Notes, from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on the IIS Guaranty, to be submitted to the Court by way of motion.

On Count VI of the Complaint:

(i) Judgment in favor of PNC Bank, National Association against Industrial Repair Services, Inc. in the amount of **\$3,542,118.46**, plus interest on the unpaid principal balance of the Notes, from and after June 15, 2010, at the variable default interest rates as set forth in the Notes, together with applicable late charges as set forth in Notes;

(ii) The reasonable attorneys' fees and expenses incurred by PNC Bank, National Association in the enforcement and collection on the IRS Guaranty, to be submitted to the Court by way of motion.

IT IS SO ORDERED.

/s/Patricia A. Gaughan
UNITED STATES DISTRICT JUDGE

6/21/10
DATE

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Agreed to by:

/s/ John Winship Read

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Industrial Repair Services, Inc.*